



**FEMA**

August 27, 2008

Dr. G. Kemble Bennett  
Chairman, National Advisory Council  
National Advisory Council (NAC)

Dear Dr. Bennett:

Thank you for the National Advisory Council's (NAC) recommendations to the draft National Incident Management System (NIMS) document. FEMA's National Preparedness Directorate reviewed the five recommendations, and all were accepted.

The recommendations included: providing clarity on the connection between the NIMS and the National Response Framework; minimizing the use of words such as, "must" and "shall" due to their potential liability on state and local stakeholders; increasing the level of consideration given to medical partners, including public health and hospitals; listing Community Emergency Response Teams (CERT) as recognized non-governmental organizations who assist in disaster response at the local level; and, finally, that FEMA consider including language that allows a Unified Operations Section within the ICS framework, clearly stating that it is not mandatory to do so. FEMA has also added language to the NIMS document to incorporate a two-year revision cycle.

A position paper on each of the NAC's recommendation is attached to provide detail on actions taken regarding the recommendations.

I appreciate the NAC's recommendations and commitment to developing a consummate NIMS document and look forward to a continued partnership. If you have any further questions or concerns, please have a member of your staff contact the Federal Emergency Management Agency's National Preparedness Directorate (202) 646-3100.

Sincerely,

A handwritten signature in black ink that reads "R. David Paulison".

R. David Paulison  
Administrator

Attachment- Position Paper on the NAC Recommendations to the Revised NIMS Base Document.

## FEMA POSITION PAPER ON NAC RECOMMENDATIONS

**NATIONAL ADVISORY COUNCIL RECOMMENDATION #1:** It is essential that the revised NIMS document demonstrate a clear connection between the National Incident Management System and the newly released National Response Framework.

**FEMA POSITION:** Concur

**BACKGROUND INFORMATION:** Linkages between the NIMS document and the NRF were carefully established during the review and revision processes for both documents. An obvious linkage is not documented until page 3, where the NRF is represented by two sentences.

**FEMA RECOMMENDED ACTION:** Based on the above discussion, modifications were made to the NIMS document in the "What is the National Incident Management System" section, the Preface on page 3, and the Preparedness Component on page 12 to highlight the relationship of the NIMS to the NRF. The recommended modifications are shown in Appendix A on pages 7 and 8 of this document.

**NATIONAL ADVISORY COUNCIL RECOMMENDATION #2:** State and local stakeholders are concerned about the potential liability implied throughout NIMS with use of words, such as "must" and "shall". The NAC recommends that the use of such words be reviewed and, where appropriate, replaced with phrases such as "must consider" or "shall consider"; or replaced with "may" or "should".

**FEMA POSITION:** Concur

**BACKGROUND INFORMATION:** The use of the words "must" and "shall" in the NIMS document were to indicate the importance of a particular action to occur. The success of NIMS relies on stakeholders carrying out each of the components in similar ways to ensure effective integration between jurisdictions and disciplines. The NAC recommended that such prescriptive language be tempered where appropriate and that FEMA ensure that those locations where "must" and "shall" remain in the document are essential to maintain the integrity of procedures, protocols and incident management processes specified in NIMS. The following specific actions were taken:

- ***The NIMS document was reviewed to locate all uses of the words "must" and "shall." The word "shall" has been removed from the document. The word "must" was found in 89 locations and action was taken as follows:***
  - In 10 locations, the word "must" was used in a way that is not specific to any one stakeholder. The use of the word applies to all jurisdictional levels and disciplines. No changes were made to "must" in those cases.
  - In 29 locations where "must" was used in a manner that could be deemed to obligate specific action on the part of States or localities, the word "must" was changed to "should" in those locations.
  - In 50 locations, the word "must" was used when discussing procedures/protocol associated with either the Incident Command System and its subcomponents, resource management, or both. When "must" is used to describe procedures which must be followed to observe ICS or resource management, no changes were made to these occurrences.

**FEMA RECOMMENDED ACTION:** The NIMS document has been reviewed and "must" was changed to "should," where appropriate, as discussed above. All in all, 33% of the occurrences pertaining to States and locals were changed from "must" to "should."

**NATIONAL ADVISORY COUNCIL RECOMMENDATION #3:** It is also recommended that more consideration be given to the role of medical partners to include public health and hospitals.

**FEMA POSITION:** Concur

**BACKGROUND INFORMATION:** Staff reviewed the NIMS document to ensure that the role of medical partners including public health and hospitals are adequately addressed. This analysis found that public health and health emergencies are included in 23 distinct locations where the considerations surrounding health are unique. These locations cover every substantive NIMS component to include all levels of government, private sector, and non-governmental organizations. Aside from specific references to public health and hospitals, the term "local" is all encompassing and includes multi-discipline responders including public health and hospitals as a subset of groups identified within NIMS.

Medical partners have been included in every step of the NIMS review, revision and comment adjudication process since 2006. The role of public health and hospitals was carefully considered during the review, revision and adjudication process. That role is specifically highlighted, along with other response disciplines, throughout the NIMS document.

Inserting additional references to public health and hospitals may set a precedent for requesting special identification of other disciplines in NIMS which is meant to be an inter-disciplinary document. Additionally, the NRF specifies the role of medical partners to include public health and hospitals and the ESF-8 annex details the roles and responsibilities of medical partners.

**FEMA RECOMMENDED ACTION:** Additional references to public health and hospitals were added to the NIMS.

**NATIONAL ADVISORY COUNCIL RECOMMENDATION #4:** Inclusion of the Community Emergency Response Teams (CERT) as a recognized non-governmental organization assisting in disaster response at the local levels.

**FEMA POSITION:** Concur

**BACKGROUND INFORMATION:** CERT is an important incident response construct. Inclusion of CERT would be a valuable addition to NIMS that would help publicize and clarify the role of CERTs and stakeholder responsibilities.

**FEMA RECOMMENDED ACTION:** Include CERT as an example of a preparedness organization on page 13, lines 5-6.

**NATIONAL ADVISORY COUNCIL RECOMMENDATION #5:** Consider including flexible language that allows for the possibility of a Unified Operations Section within the ICS framework. However, clarify that it is not mandatory to do so.

**FEMA POSITION:** Concur

**BACKGROUND INFORMATION:** As NIMS is currently written, the Incident Commander has the prerogative to institute ICS in a flexible manner. The concept of Unified Operations is a controversial issue that will require wide-ranging discussion among numerous organizations, including IMSI, the agencies involved in the NIMS Working Group, the US Forest Service and the National Wildfire Coordination Group, who use ICS extensively. Formally incorporating Unified Operations in NIMS will require significant changes to ICS. The magnitude of this change will require a lengthy process involving extensive coordination between large numbers of stakeholders. While this is an important issue, it cannot be negotiated and fully vetted in the time currently allotted to complete this version of NIMS.

**FEMA RECOMMENDED ACTION:** In the interest of time, this change will not be reflected in the current NIMS document; however, IMSI will raise this issue with the NIMS Working Group and key ICS players, such as the US Forest Service and the National Wildfire Coordination Group. With the concurrence of stakeholders, this change will be incorporated into future versions of NIMS.